

AMENDED IN SENATE APRIL 15, 2009

SENATE BILL

No. 442

Introduced by Senator Ducheny

February 26, 2009

An act to amend Sections 1200, ~~1207, 1212, 1213, 1214, 1216, 1213, 1214, 1219, and 1221~~ 1229, and 1266 of, and to add Section 1212.5 to, the Health and Safety Code, relating to clinics.

LEGISLATIVE COUNSEL'S DIGEST

SB 442, as amended, Ducheny. Clinic corporation: licensing.

Under existing law, the State Department of Public Health is responsible for the licensing and regulation of clinics, as defined. A violation of these provisions is a crime.

This bill would define "clinic corporation" as a nonprofit organization that owns one or more primary care clinics, as defined, and would provide for a single, consolidated license for corporation clinics, as specified.

Existing law provides for a fee to be paid for an initial license, renewal license, license upon change of ownership, or special permit set at specified amounts.

This bill would *require the department to annually* set the fee for a clinic corporation ~~at a percentage of the fee for primary care clinics for each clinic site~~. The bill would also make conforming changes to the licensing provisions. Because this bill would create a new crime, it imposes a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1200 of the Health and Safety Code is
2 amended to read:

3 1200. (a) As used in this chapter, “clinic” means an organized
4 outpatient health facility that provides direct medical, surgical,
5 dental, optometric, or podiatric advice, services, or treatment to
6 patients who remain less than 24 hours, and that may also provide
7 diagnostic or therapeutic services to patients in the home as an
8 incident to care provided at the clinic facility. Nothing in this
9 section shall be construed to prohibit the provision of nursing
10 services in a clinic licensed pursuant to this chapter. In no case
11 shall a clinic be deemed to be a health facility subject to the
12 provisions of Chapter 2 (commencing with Section 1250). A place,
13 establishment, or institution that solely provides advice, counseling,
14 information, or referrals on the maintenance of health or on the
15 means and measures to prevent or avoid sickness, disease, or injury,
16 where that advice, counseling, information, or referral does not
17 constitute the practice of medicine, surgery, dentistry, optometry,
18 or podiatry, shall not be deemed a clinic for purposes of this
19 chapter.

20 (b) For purposes of this chapter:

21 (1) “Primary care clinics” means all the types of clinics specified
22 in subdivision (a) of Section 1204, including community clinics
23 and free clinics.

24 (2) “Specialty clinics” means all the types of clinics specified
25 in subdivision (b) of Section 1204, including surgical clinics,
26 chronic dialysis clinics, and rehabilitation clinics.

27 (3) “Clinic corporation” means a nonprofit organization that
28 operates one or more primary care clinics, as defined in paragraphs
29 (1) and (2) of subdivision (a) of Section 1204, ~~which that~~ are
30 required to be licensed under Section 1205, ~~including a that may~~
31 ~~include one or more mobile health care-unit units required to be~~
32 licensed or approved pursuant to the Mobile Health Care Services
33 Act (Chapter 9 (commencing with Section 1765.101)). “Clinic

corporation” shall not mean a health facility, as described in Section 1250 or subdivision (b) of Section 32000.1, a health care district, as described in subdivision (a) of Section 32000.1, or a person or public or private entity that operates, establishes, manages, conducts, or maintains clinics that are exempt from licensure pursuant to Section 1206, except that a clinic corporation may operate one or more intermittent clinics, as described in subdivision (b) of Section 1206, in addition to licensed primary care clinics. Except for Section 1205.5, 1206, 1206.1, or 1218.1, any section in this chapter that refers to a “primary care clinic,” “clinic,” or “licensed clinic” for the purposes of licensing, special permits, inspection, or data collection shall also apply to a clinic corporation. 1765.101)) and operated as primary care clinics, or one or more primary care clinics and one or more mobile health care units.

(4) “Department” means the Licensing and Certification Division of the State Department of Public Health, or its successor.

SEC. 2. ~~Section 1207 of the Health and Safety Code is amended to read:~~

~~1207. The department shall inspect and license clinics and clinic corporations, and shall inspect and approve clinics and clinic corporations to offer special services. Nothing in this section shall be interpreted to require a clinic corporation to apply for a single consolidated license pursuant to Section 1212.5.~~

SEC. 3. ~~Section 1212 of the Health and Safety Code is amended to read:~~

~~1212. (a) A person, firm, association, partnership, or corporation desiring a license for a clinic or a special permit for special services under the provisions of this chapter, shall file with the department a verified application on forms prescribed and furnished by the department, containing the following:~~

~~(1) Evidence satisfactory to the department that the applicant is of reputable and responsible character. If the applicant is a firm, association, partnership, trust, corporation, or other artificial or legal entity, like evidence shall be submitted as to the members, partners, trustees or shareholders, directors, and officers thereof and as to the person who is to be the administrator of, and exercise control, management, and direction of the clinic for which application is made.~~

~~(2) If the applicant is a partnership, the name and principal business address of each partner, and, if any partner is a corporation, the name and principal business address of each officer and director of the corporation and name and business address of each stockholder owning 10 percent or more of the stock thereof.~~

~~(3) If the applicant is a corporation, the name and principal business address of each officer and director of the corporation, and where the applicant is a stock corporation, the name and principal business address of each stockholder holding 10 percent or more of the applicant's stock and, where any stockholder is a corporation, the name and principal business address of each officer and director of the corporate stockholder.~~

~~(4) Evidence satisfactory to the department of the ability of the applicant to comply with the provisions of this chapter and rules and regulations promulgated under this chapter by the department.~~

~~(5) The name and address of the clinic, and if the applicant is a professional corporation, firm, partnership, or other form of organization, evidence that the applicant has complied with the requirements of the Business and Professions Code governing the use of fictitious names by practitioners of the healing arts. If the applicant is a clinic corporation, the name and address of each primary care clinic to be included on the license.~~

~~(6) The name and address of the professional licentiate responsible for the professional activities of the clinic and the licentiate's license number and professional experience.~~

~~(7) The class of clinic to be operated, the character and scope of advice and treatment to be provided, and a complete description of the building, its location, facilities, equipment, apparatus, and appliances to be furnished and used in the operation of the clinic.~~

~~(8) Sufficient operational data to allow the department to determine the class of clinic that the applicant proposes to operate and the initial license fee to be charged.~~

~~(9) Any other information as may be required by the department for the proper administration and enforcement of this chapter, including, but not limited to, evidence that the clinic has a written policy relating to the dissemination of the following information to patients:~~

~~(A) A summary of current state laws requiring child passenger restraint systems to be used when transporting children in motor vehicles.~~

1 ~~(B) A listing of child passenger restraint system programs~~
2 ~~located within the county, as required by Section 27360 or 27362~~
3 ~~of the Vehicle Code.~~

4 ~~(C) Information describing the risks of death or serious injury~~
5 ~~associated with the failure to utilize a child passenger restraint~~
6 ~~system.~~

7 ~~(b) (1) No application is required where a licensed primary~~
8 ~~care clinic adds a service that is not a special service, as defined~~
9 ~~in Section 1203, or any regulation adopted thereunder, or remodels~~
10 ~~or modifies an existing primary care clinic site. However, the clinic~~
11 ~~shall notify the department, in writing, of the change in service or~~
12 ~~physical plant no less than 60 days prior to adding the service or~~
13 ~~remodeling or modifying an existing primary care clinic site.~~
14 ~~Nothing in this subdivision shall be construed to limit the authority~~
15 ~~of the department to conduct an inspection at any time pursuant~~
16 ~~to Section 1227, in order to ensure compliance with, or to prevent~~
17 ~~a violation of, this chapter, or any regulation adopted under this~~
18 ~~chapter.~~

19 ~~(2) Where applicable city, county, or state law obligates the~~
20 ~~primary care clinic to obtain a building permit with respect to the~~
21 ~~remodeling or modification to be performed by the clinic, the~~
22 ~~primary care clinic shall provide a signed certification or statement~~
23 ~~as described in Section 1226.3 to the department within 60 days~~
24 ~~following completion of the remodeling or modification project~~
25 ~~covered by the building permit.~~

26 ~~(c) In the course of fulfilling its obligations under Section~~
27 ~~1221.09, the department shall ensure that any application form~~
28 ~~utilized by a primary care clinic, requiring information of the type~~
29 ~~specified in paragraph (1), (4), (8), or (9) of subdivision (a), is~~
30 ~~consistent with the requirements of Section 1225, including the~~
31 ~~requirement that rules and regulations for primary care clinics be~~
32 ~~separate and distinct from the rules and regulations for specialty~~
33 ~~clinics. Nothing in this section shall be construed to require the~~
34 ~~department to issue a separate application form for primary care~~
35 ~~clinics.~~

36 ~~SEC. 4.~~

37 ~~SEC. 2. Section 1212.5 is added to the Health and Safety Code,~~
38 ~~to read:~~

39 ~~1212.5. (a) The department, upon~~ Upon application of a clinic
40 ~~corporation that meets the requirements of Section 1212 and other~~

1 ~~applicable requirements of licensure, that operates more than one~~
2 ~~primary care clinic, as defined in paragraphs (1) and (2) of~~
3 ~~subdivision (a) of Section 1240, the department shall issue a single~~
4 ~~consolidated license to a the clinic corporation that operates more~~
5 ~~than one primary care clinic, as defined in paragraphs (1) and (2)~~
6 ~~of subdivision (a) of Section 1204, including any mobile unit~~
7 ~~licensed under the Mobile Health Care Services Act (Chapter 9~~
8 ~~(commencing with Section 1765.101)). if the clinics included in~~
9 ~~the single consolidated license application meet the requirements~~
10 ~~of Section 1212 and other applicable requirements for licensure.~~

11 (b) *In addition to primary care clinics, as described in*
12 *subdivision (a), a clinic corporation may include, in its application*
13 *for a single consolidated license, one or more mobile health care*
14 *units that meet the requirements under the Mobile Health Care*
15 *Services Act (Chapter 9 (commencing with Section 1765.101)).*

16 (c) *Upon application of a clinic corporation that operates more*
17 *than one mobile health care unit and only operates mobile health*
18 *care units, the department shall issue a single consolidated license*
19 *to the clinic corporation if the mobile health care units included*
20 *in the single consolidated license application meet the requirements*
21 *under the Mobile Health Care Services Act (Chapter 9*
22 *(commencing with Section 1765.101)).*

23 ~~(b)~~
24 (d) *Eligibility for the issuance of a single consolidated license*
25 *shall be based on the following criteria:*

26 ~~(1) There is a single governing body for all primary care clinics~~
27 ~~maintained and operated by the licensee.~~

28 (1) *A completed application for a single consolidated license*
29 *has been submitted and the associated license fee has been paid.*

30 (2) *The corporate officers, as specified in Section 5213 of the*
31 *Corporations Code, are the same for each primary care clinic or*
32 *mobile unit included in the single consolidated license.*

33 (3) *The clinic corporation's nonprofit board of directors both*
34 *owns and operates each primary care clinic or mobile unit included*
35 *in the single consolidated license.*

36 (4) *The clinic corporation has submitted evidence to the*
37 *department establishing compliance with the minimum construction*
38 *standards of adequacy and safety for physical plant, pursuant to*
39 *subdivision (b) of Section 1126, for each primary care clinic*
40 *included in the single consolidated license.*

(2)

(5) There are one or more medical directors operating under a single set of policies, procedures, and standards for all the primary care clinics maintained and operated by the licensee.

~~(e) In issuing the single consolidated license, the department shall specify the name, location, hours of operation, and services of each clinic included in the license.~~

~~(d) A clinic corporation that is issued a single consolidated license may, at its discretion, consolidate the administrative functions set out in Section 1218.2 for all clinics that are subject to the single consolidated license.~~

(e) For purposes of this section there is a presumption that all primary care clinics included in the application for the single consolidated license that are separately licensed and in good standing at the time of application for a single consolidated license, meet the requirements of subdivision (a) and paragraph (4) of subdivision (d).

(f) For purposes of this section there is a presumption that all mobile units included in the application for the single consolidated license that are separately licensed or approved by the department and in good standing at the time of application for a single consolidated license, meet the requirements of subdivision (b).

(g) The department shall issue a single consolidated license under this section within 30 days of receipt of a completed application or within seven days of the date the central application unit approves the application for a single consolidated license, whichever is sooner. If the department determines that an applicant does not meet the criteria for a single consolidated license as set forth in subdivision (d), it shall identify, in writing and with particularity, the grounds for that determination and shall, instead, process the application under this chapter as if the application was submitted on the date the denial was released.

(h) Upon application to the department, clinic corporation that is issued a single consolidated license pursuant to this section may add a clinic, including a mobile health care unit, to the single consolidated license, or remove a clinic, including a mobile health care unit, from the single consolidated license, at any time during the license period. For every primary care clinic or mobile health care unit added to the single consolidated license before the next renewal date, the clinic corporation shall pay a license fee, if

1 applicable, equivalent to the fee for one primary care clinic
2 included in a single consolidated license set pursuant to subdivision
3 (d) of Section 1266, prorated based on the effective date of the
4 addition of the clinic.

5 (i) The department shall develop a single-page application form
6 for adding a clinic between renewal periods that includes all of
7 the following information:

8 (1) The name and address of the clinic corporation.

9 (2) The name and address of the clinic or mobile health unit to
10 be added or removed.

11 (3) The days and hours of operation and the services provided
12 at each clinic site added.

13 (4) A self-attestation that each clinic site added meets the
14 requirements of Section 1212, including minimum construction
15 standards for adequacy and safety of physical plant, pursuant to
16 subdivision (b) of Section 1226.

17 (5) Evidence of appropriate and sufficient fire clearance.

18 (j) A clinic corporation that is issued a single consolidated
19 license may consolidate the administrative functions, as specified
20 in Section 1218.2, for all clinics that are subject to the single
21 consolidated license.

22 (k) Upon written notice to the department, a clinic corporation
23 that has been issued a single consolidated license may apply for
24 one or more special permits pursuant to Section 1202. A clinic
25 corporation that is issued one or more special permits may transfer
26 the special permits from one clinic site to another site that is
27 included in the single consolidated license.

28 (l) The department shall transmit to the clinic corporation that
29 is issued a single consolidated license a renewal fee invoice at
30 least 45 days prior to the expiration date of the single consolidated
31 license. Failure by the clinic corporation to make timely payment
32 of the renewal fee shall result in the expiration of any licenses and
33 special permits. Timely application for renewal shall be deemed
34 equivalent to renewal of the license and special permits, if any,
35 where the department is unable to issue a renewal license or
36 special permit on or before the expiration date.

37 (m) If the department issues a single consolidated license
38 pursuant to this section, the department, except as limited by
39 Section 1229 and Article 5 (commencing with Section 1240), may
40 take any action authorized by this chapter, including, but not

limited to, action specified in Article 5 (commencing with Section 1240 with respect to a primary care clinic or special services provided in a clinic that is included in the consolidated license. An action against one or more clinics included in the consolidated license shall not be deemed an action against the clinic corporation as a whole.

(n) Nothing in this section shall require the business office of a clinic corporation to enroll in the Medi-Cal program, pursuant to subdivision (c) of Section 14043.15 of the Welfare and Institutions Code, or a program specified in Section 1222, as a clinic location subject to the single consolidated license. Each primary care clinic included in the single consolidated license shall be deemed to be licensed for purposes of enrollment as a provider in any health care program. Each primary care clinic, including a mobile health care unit, may separately enroll as a provider in the Medi-Cal program or other health care program using the business address of the primary care clinic.

(o) Nothing in this section shall affect prospective payment rate calculations made under Section 14132.100 of the Welfare and Institutions Code for individual rural health clinics and federally qualified health centers included in a single consolidated license.

(p) Nothing in this section shall affect the requirements for obtaining a permit or license from the Board of Pharmacy pursuant to Chapter 9 (commencing with Section 1480) of Division 2 of the Business and Professions Code. Each primary care clinic that is included in the single consolidated license shall be deemed to be licensed as a primary care clinic for purposes of obtaining a pharmacy license or permit.

(q) Nothing in this section shall affect the requirements for obtaining a clinic laboratory registration or license pursuant to Section 1265 of the Business and Professions Code. Each primary care clinic, including a mobile health care unit, that is included in the single consolidated license shall be deemed to be licensed as a primary care clinic for the purpose of obtaining a clinic laboratory license or registration.

(r) Nothing in this section shall require a clinic corporation to apply for a single consolidated license.

~~SEC. 5.~~

SEC. 3. Section 1213 of the Health and Safety Code is amended to read:

1 1213. ~~Any~~A person, firm, association, partnership, corporation,
2 or other legal entity desiring a license for a clinic shall be exempt
3 from the requirements of Chapter 2 (commencing with Section
4 16000) of Division 12.5.

5 ~~SEC. 6.~~

6 ~~SEC. 4.~~ Section 1214 of the Health and Safety Code is amended
7 to read:

8 1214. Each application under this chapter for an initial license,
9 renewal license, license upon change of ownership, or special
10 permit shall be accompanied by a Licensing and Certification
11 Program fee, as follows:

12 (a) For all primary care clinics licensed pursuant to this chapter,
13 the annual fee shall be set in accordance with Section 1266.

14 (b) For all specialty clinics licensed pursuant to this chapter,
15 the annual fee shall be set in accordance with Section 1266.

16 (c) For all rehabilitation clinics, the annual fee shall be set in
17 accordance with Section 1266.

18 (d) For all clinic corporations—~~licensed issued a single~~
19 ~~consolidated license~~ pursuant to this chapter, the annual fee shall
20 be a percentage of the fee for primary care clinics set pursuant to
21 subdivision (a) for each clinic site. Intermittent clinics, as described
22 in subdivision (h) of Section 1206, included in the clinic
23 corporation license shall not be counted for the purpose of
24 establishing the license fee. *set in accordance with Section 1266.*

25 ~~SEC. 7.~~ Section 1216 of the Health and Safety Code is amended
26 to read:

27 ~~1216. (a) Every clinic holding a license or included in the~~
28 ~~license of a clinic corporation shall, on or before the 15th day of~~
29 ~~February each year, file with the Office of Statewide Health~~
30 ~~Planning and Development upon forms to be furnished by the~~
31 ~~office, a verified report showing the following information relating~~
32 ~~to the previous calendar year:~~

33 ~~(1) Number of patients served and descriptive information,~~
34 ~~including age, gender, race, and ethnic background of patients.~~

35 ~~(2) Number of patient visits by type of service, including all of~~
36 ~~the following:~~

37 ~~(A) Child health and disability prevention screens, treatment,~~
38 ~~and followup services.~~

39 ~~(B) Medical services.~~

40 ~~(C) Dental services.~~

1 ~~(D) Other health services.~~

2 ~~(3) Total clinic operating expenses.~~

3 ~~(4) Gross patient charges by payer category, including Medicare,~~
4 ~~Medi-Cal, the Child Health Disability Prevention Program, county~~
5 ~~indigent programs, other county programs, private insurance,~~
6 ~~self-paying patients, nonpaying patients, and other payers.~~

7 ~~(5) Deductions from revenue by payer category, bad debts, and~~
8 ~~charity care charges.~~

9 ~~(6) Additional information as may be required by the office or~~
10 ~~the department.~~

11 ~~(b) In the event a clinic fails to file a timely report, the~~
12 ~~department may suspend the license of the clinic until the report~~
13 ~~is completed and filed with the office.~~

14 ~~(c) In order to promote efficient reporting of accurate data, the~~
15 ~~office shall consider the unique operational characteristics of~~
16 ~~different classifications of licensed clinics, including, but not~~
17 ~~limited to, the limited scope of services provided by some specialty~~
18 ~~clinics, in its design of forms for the collection of data required~~
19 ~~by this section.~~

20 ~~(d) For the purpose of administering funds appropriated from~~
21 ~~the Cigarette and Tobacco Products Surtax Fund for support of~~
22 ~~licensed clinics, clinics receiving those funds may be required to~~
23 ~~report any additional data the office or the department may~~
24 ~~determine necessary to ensure the equitable distribution and~~
25 ~~appropriate expenditure of those funds. This shall include, but not~~
26 ~~be limited to, information about the poverty level of patients served~~
27 ~~and communicable diseases reported to local health departments.~~

28 ~~(e) This section shall apply to all primary care clinics but shall~~
29 ~~not apply to intermittent clinics, as defined in subdivision (h) of~~
30 ~~Section 1206.~~

31 ~~(f) This section shall apply to all specialty clinics, as defined in~~
32 ~~paragraph (2) of subdivision (a) of Section 1204 of the Health and~~
33 ~~Safety Code that receive tobacco tax funds pursuant to Article 2~~
34 ~~(commencing with Section 30121) of Chapter 2 of Part 13 of~~
35 ~~Division 2 of the Revenue and Taxation Code.~~

36 ~~(g) Specialty clinics that are not required to report pursuant to~~
37 ~~subdivision (f) shall report data as directed in Section 1216 as it~~
38 ~~existed prior to the enactment of Chapter 1331 of the Statutes of~~
39 ~~1989 and Chapter 51 of the Statutes of 1990.~~

~~SEC. 8.~~

SEC. 5. Section 1219 of the Health and Safety Code is amended to read:

1219. (a) Except for an affiliate clinic, as defined in Section 1218.1, or a clinic corporation that includes, in its application for a single consolidated ~~license~~ *a license, one or more* primary care ~~clinic clinics~~, including ~~a one or more~~ mobile health care ~~unit units~~, that ~~was~~ *were* licensed and in good standing as of December 31, 2009, if a clinic or an applicant for a license has not been previously licensed, the department may only issue a provisional license to the clinic as provided in this section.

(b) A provisional license to operate a clinic shall terminate six months from the date of issuance.

(c) Within 30 days prior to the termination of a provisional license, the department shall give the clinic a full and complete inspection, and, if the clinic meets all applicable requirements for licensure, a regular license shall be issued. If the clinic does not meet the requirements for licensure but has made substantial progress towards meeting those requirements, as determined by the department, the initial provisional license shall be renewed for six months.

(d) If the department determines that there has not been substantial progress towards meeting licensure requirements at the time of the first full inspection provided by this section, or, if the department determines upon its inspection made within 30 days of the termination of a renewed provisional license that there is a lack of full compliance with those requirements, no further license shall be issued.

(e) If an applicant for a provisional license to operate a clinic has been denied by the department, the applicant may contest the denial by filing a statement of issues, as provided in Section 11504 of the Government Code. The proceedings to review the denial shall be conducted pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

~~SEC. 9. Section 1221 of the Health and Safety Code is amended to read:~~

~~1221. For purposes of this article, the following definitions shall apply:~~

1 ~~(a) “Centralized applications unit” means the centralized~~
2 ~~applications unit in the Licensing and Certification Division of the~~
3 ~~State Department of Public Health, or a successor entity.~~

4 ~~(b) “Clinic” means primary care clinics, nonprofit community~~
5 ~~health centers, nonprofit rural health clinics, nonprofit community~~
6 ~~clinics, and free clinics.~~

7 *SEC. 6. Section 1229 of the Health and Safety Code is amended*
8 *to read:*

9 1229. *(a) The state department shall notify any, in writing, a*
10 ~~clinic of all deficiencies in its compliance with the provisions of~~
11 ~~this chapter, or the rules and regulations adopted hereunder, which~~
12 ~~that are discovered or confirmed by inspection, and the clinic shall~~
13 ~~agree with the state department upon on a plan of correction which~~
14 ~~that shall give the clinic a reasonable time to correct such the~~
15 ~~deficiencies. During such the allotted time, a list of deficiencies~~
16 ~~and the plan of correction shall be conspicuously posted in a clinic~~
17 ~~location accessible to public view. If, at the end of the allotted~~
18 ~~time, as provided in the plan of correction, the clinic has failed to~~
19 ~~correct the deficiencies, the state department shall assess the~~
20 ~~licensee a civil penalty not to exceed fifty dollars (\$50) per day,~~
21 ~~until the state department finds the clinic in compliance. In such~~
22 ~~that case, the state department may also initiate action against the~~
23 ~~clinic to revoke or suspend the license. Nothing in this chapter~~
24 ~~shall be deemed to prohibit a clinic which that is unable to correct~~
25 ~~the deficiencies, as specified in a plan of corrections, correction~~
26 ~~for reasons beyond its control from voluntarily surrendering its~~
27 ~~license pursuant to Section 1245 prior to the assessment of any a~~
28 ~~civil penalty or the initiation of any a revocation or suspension~~
29 ~~proceeding.~~

30 ~~(b) Notwithstanding subdivision (a), the department shall notify,~~
31 ~~in writing, a clinic corporation of all deficiencies in compliance~~
32 ~~with the provisions of this chapter, or the rules and regulations~~
33 ~~adopted hereunder, that are discovered or confirmed by inspection,~~
34 ~~in one or more clinics included in a single consolidated license~~
35 ~~issued pursuant to Section 1212.5, and the clinic corporation shall~~
36 ~~agree with the department on a plan of correction that gives the~~
37 ~~clinic corporation a reasonable time to correct the deficiencies.~~
38 ~~If, at the end of the time provided in the plan of correction, the~~
39 ~~clinic corporation has failed to correct the deficiencies, the~~
40 ~~department shall assess the licensee a civil penalty not to exceed~~

1 *fifty dollars (\$50) per day per clinic cited as deficient, until the*
 2 *department finds the clinic corporation in compliance. The*
 3 *department may also initiate action against the clinic corporation*
 4 *to remove or suspend the clinic or clinics that are the subject of*
 5 *the deficiencies from the single consolidated license. Nothing in*
 6 *this chapter shall be deemed to prohibit a clinic corporation that*
 7 *is unable, for reasons beyond its control, to correct the deficiencies*
 8 *specified in the plan of correction from voluntarily removing a*
 9 *clinic or clinics from its single consolidated license prior to the*
 10 *assessment of a civil penalty or the initiation of a removal or*
 11 *suspension proceeding. In no case shall the department initiate*
 12 *an action to revoke or suspend the single consolidated license for*
 13 *uncorrected deficiencies outlined in a written notice of deficiencies,*
 14 *in one or more clinics included in a single consolidated license,*
 15 *unless each clinic, including a mobile health care unit, that is*
 16 *included in the single consolidated license is cited in the notice of*
 17 *deficiencies and the clinic corporation failed to correct the*
 18 *deficiencies in every clinic within the allotted time period*
 19 *according to the plan of correction.*

20 *SEC. 7. Section 1266 of the Health and Safety Code is amended*
 21 *to read:*

22 1266. (a) The Licensing and Certification Division shall be
 23 supported entirely by federal funds and special funds by no earlier
 24 than the beginning of the 2009–10 fiscal year unless otherwise
 25 specified in statute, or unless funds are specifically appropriated
 26 from the General Fund in the annual Budget Act or other enacted
 27 legislation. For the 2007–08 fiscal year, General Fund support
 28 shall be provided to offset licensing and certification fees in an
 29 amount of not less than two million seven hundred eighty-two
 30 thousand dollars (\$2,782,000).

31 (b) The Licensing and Certification Program fees for the
 32 2006–07 fiscal year shall be as follows:

Type of Facility	Fee	
General Acute Care Hospitals	\$ 134.10	per bed
Acute Psychiatric Hospitals	\$ 134.10	per bed
Special Hospitals	\$ 134.10	per bed
Chemical Dependency Recovery Hospitals	\$ 123.52	per bed
Skilled Nursing Facilities	\$ 202.96	per bed

1	Intermediate Care Facilities	\$ 202.96	per bed
2	Intermediate Care Facilities - Developmentally		
3	Disabled	\$ 592.29	per bed
4	Intermediate Care Facilities - Developmentally		
5	Disabled - Habilitative	\$1,000.00	per facility
6	Intermediate Care Facilities - Developmentally		
7	Disabled - Nursing	\$1,000.00	per facility
8	Home Health Agencies	\$2,700.00	per facility
9	Referral Agencies	\$5,537.71	per facility
10	Adult Day Health Centers	\$4,650.02	per facility
11	Congregate Living Health Facilities	\$ 202.96	per bed
12	Psychology Clinics	\$ 600.00	per facility
13	Primary Clinics - Community and Free	\$ 600.00	per facility
14	Specialty Clinics - Rehab Clinics		
15	(For profit)	\$2,974.43	per facility
16	(Nonprofit)	\$ 500.00	per facility
17	Specialty Clinics - Surgical and Chronic	\$1,500.00	per facility
18	Dialysis Clinics	\$1,500.00	per facility
19	Pediatric Day Health/Respite Care	\$ 142.43	per bed
20	Alternative Birthing Centers	\$2,437.86	per facility
21	Hospice	\$1,000.00	per facility
22	Correctional Treatment Centers	\$ 590.39	per bed

23
24 (c) Commencing February 1, 2007, and every February 1
25 thereafter, the department shall publish a list of estimated fees
26 pursuant to this section. The calculation of estimated fees and the
27 publication of the report and list of estimated fees shall not be
28 subject to the rulemaking requirements of Chapter 3.5
29 (commencing with Section 11340) of Part 1 of Division 3 of Title
30 2 of the Government Code.

31 (d) Commencing February 1, 2010, and every February
32 thereafter, the department shall publish the estimated fee for a
33 single consolidated license issued under Section 1212.5 pursuant
34 to this section. The calculation of the estimated fee shall be based
35 on a percentage of the fee for primary care clinics, for each
36 primary care clinic included in a single consolidated license, and
37 shall be included in the report and list of estimated fees required
38 by subdivisions (c) and (e).

39 (d)

1 (e) By February 1 of each year, the department shall prepare
2 the following reports and shall make those reports, and the list of
3 estimated fees required to be published pursuant to subdivision
4 (c), available to the public by submitting them to the Legislature
5 and posting them on the department's *Internet* Web site:

6 (1) The department shall prepare a report of all costs for
7 activities of the Licensing and Certification Program. At a
8 minimum, this report shall include a narrative of all baseline
9 adjustments and their calculations, a description of how each
10 category of facility was calculated, descriptions of assumptions
11 used in ~~any~~ calculations, and shall recommend Licensing and
12 Certification Program fees in accordance with the following:

13 (A) Projected workload and costs shall be grouped for each fee
14 category.

15 (B) Cost estimates, and the estimated fees, shall be based on
16 the appropriation amounts in the Governor's proposed budget for
17 the next fiscal year, with and without policy adjustments to the fee
18 methodology.

19 (C) The allocation of program, operational, and administrative
20 overhead, and indirect costs to fee categories shall be based on
21 generally accepted cost allocation methods. Significant items of
22 costs shall be directly charged to fee categories if the expenses can
23 be reasonably identified to the fee category that caused them.
24 Indirect and overhead costs shall be allocated to all fee categories
25 using a generally accepted cost allocation method.

26 (D) The amount of federal funds and General Fund moneys to
27 be received in the budget year shall be estimated and allocated to
28 each fee category based upon an appropriate metric.

29 (E) The fee for each category shall be determined by dividing
30 the aggregate state share of all costs for the Licensing and
31 Certification Program by the appropriate metric for the category
32 of licensure. Amounts actually received for new licensure
33 applications, including change of ownership applications, and late
34 payment penalties, pursuant to Section 1266.5, during each fiscal
35 year shall be calculated and 95 percent shall be applied to the
36 appropriate fee categories in determining Licensing and
37 Certification Program fees for the second fiscal year following
38 receipt of those funds. The remaining 5 percent shall be retained
39 in the fund as a reserve until appropriated.

1 (2) (A) The department shall prepare a staffing and systems
2 analysis to ensure efficient and effective utilization of fees
3 collected, proper allocation of departmental resources to licensing
4 and certification activities, survey schedules, complaint
5 investigations, enforcement and appeal activities, data collection
6 and dissemination, surveyor training, and policy development.

7 (B) The analysis under this paragraph shall be made available
8 to interested persons and shall include all of the following:

9 (i) The number of surveyors and administrative support
10 personnel devoted to the licensing and certification of health care
11 facilities.

12 (ii) The percentage of time devoted to licensing and certification
13 activities for the various types of health facilities.

14 (iii) The number of facilities receiving full surveys and the
15 frequency and number of follow up visits.

16 (iv) The number and timeliness of complaint investigations.

17 (v) Data on deficiencies and citations issued, and numbers of
18 citation review conferences and arbitration hearings.

19 (vi) Other applicable activities of the licensing and certification
20 division.

21 ~~(e)~~

22 ~~(f)~~ (1) The department shall adjust the list of estimated fees
23 published pursuant to subdivision (c) if the annual Budget Act or
24 other enacted legislation includes an appropriation that differs
25 from those proposed in the Governor's proposed budget for that
26 fiscal year.

27 (2) The department shall publish a final fee list, with an
28 explanation of any adjustment, by the issuance of an all facilities
29 letter, by posting the list on the department's Internet Web site,
30 and by including the final fee list as part of the licensing application
31 package, within 14 days of the enactment of the annual Budget
32 Act. The adjustment of fees and the publication of the final fee list
33 shall not be subject to the rulemaking requirements of Chapter 3.5
34 (commencing with Section 11340) of Part 1 of Division 3 of Title
35 2 of the Government Code.

36 ~~(f)~~

37 (g) (1) No fees shall be assessed or collected pursuant to this
38 section from any state department, authority, bureau, commission,
39 or officer, unless federal financial participation would become
40 available by doing so and an appropriation is included in the annual

1 Budget Act for that—state department, authority, bureau,
2 commission, or officer for this purpose. No fees shall be assessed
3 or collected pursuant to this section from any clinic that is certified
4 only by the federal government and is exempt from licensure under
5 Section 1206, unless federal financial participation would become
6 available by doing so.

7 (2) For the 2006–07 state fiscal year, no fee shall be assessed
8 or collected pursuant to this section from any general acute care
9 hospital owned by a health care district with 100 beds or less.

10 ~~(g)~~
11 *(h)* The Licensing and Certification Program may change annual
12 license expiration renewal dates to provide for efficiencies in
13 operational processes or to provide for sufficient cash flow to pay
14 for expenditures. If an annual license expiration date is changed,
15 the renewal fee shall be prorated accordingly. Facilities shall be
16 provided with a 60-day notice of ~~any~~ a change in their annual
17 license renewal date.

18 ~~SEC. 10.~~

19 *SEC. 8.* No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.